

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Goldapper	Team: Team # 6	CCRB Case #: 201204207	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/31/2012 7:10 PM	Location of Incident: Rogers Avenue and Lincoln Place	Precinct: 77	18 Mo. SOL 9/30/2013	EO SOL 9/30/2013	
Date/Time CV Reported Sat, 03/31/2012 10:48 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 03/31/2012 10:48 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Santoro	01679	949621	PBBN
2. SGT Vitaliy Zelikov	01346	936353	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vitaliy Zelikov	Abuse: Sgt. Vitaliy Zelikov damaged § 87(2)(b) s property.	
B.POM Michael Santoro	Discourtesy: PO Michael Santoro spoke discourteously to § 87(2)(b)	
C.POM Michael Santoro	Off. Language: PO Michael Santoro made remarks to § 87(2)(b) based upon race.	
D.SGT Vitaliy Zelikov	Discourtesy: Sgt. Vitaliy Zelikov spoke discourteously to § 87(2)(b)	
E.SGT Vitaliy Zelikov	Abuse: Sgt. Vitaliy Zelikov threatened § 87(2)(b) with the use of force.	
F.POM Michael Santoro	Abuse: PO Michael Santoro searched § 87(2)(b)	
G.POM Michael Santoro	Force: PO Michael Santoro used physical force against § 87(2)(b)	

Case Summary

On March 31, 2012, § 87(2)(b) filed his complaint with the CCRB's Call-Processing System (encl. 4) and with the IAB Command Center (IAB Log #12-17921) (encl. 5). On March 31, 2012, at approximately 7:10 p.m., PO Michael Santoro and Sgt. Vitaliy Zelikov from Patrol Borough Brooklyn North pulled § 87(2)(b) over in the vicinity of Rogers Avenue and Lincoln Place, in Brooklyn, for traffic violations. The following allegations resulted:

- **Allegation A – Abuse of Authority:** Sgt. Vitaliy Zelikov damaged § 87(2)(b)'s property.
- **Allegation B – Discourtesy:** PO Michael Santoro spoke discourteously to § 87(2)(b).
- **Allegation C – Offensive Language:** PO Michael Santoro made remarks to § 87(2)(b) based upon race.
- **Allegation D – Discourtesy:** Sgt. Vitaliy Zelikov spoke discourteously to § 87(2)(b).
- **Allegation E – Abuse of Authority:** Sgt. Vitaliy Zelikov threatened § 87(2)(b) with the use of force.
- **Allegation F – Abuse of Authority:** PO Michael Santoro searched § 87(2)(b).
- **Allegation G – Force:** PO Michael Santoro used physical force against § 87(2)(b).

§ 87(2)(g)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b) was a § 87(2)(b)-old black male at the time of incident, who is 5'7" tall, weighs 183 pounds, and has black hair and black eyes. § 87(2)(b)

Statements

On March 31, 2012, § 87(2)(b) filed his complaint with the CCRB's Call-Processing System (encl. 4) and with the IAB Command Center (IAB Log #12-17921) (encl. 5A). On April 12, 2012, § 87(2)(b) made a statement electronically with the Police Commissioner's office (IAB Log #12-21445) (encl. 5B). § 87(2)(b) was interviewed at the CCRB on April 12, 2012 (encl. 6), and provided a phone statement on April 19, 2012 (encl. 7). § 87(2)(g)

On March 31, 2012, at approximately 7:10 p.m., § 87(2)(b) was driving a 1997 grey Lincoln, license plate § 87(2)(b) in the vicinity of Nostrand Avenue and Lincoln Place, in Brooklyn. § 87(2)(b) was pulled over by officers, identified by the investigation as PO Michael Santoro and Sgt. Vitaliy Zelikov from Patrol Borough Brooklyn North, in a marked patrol car, #3821, in the vicinity of Rogers Avenue and Lincoln Place, in Brooklyn. § 87(2)(b) described PO Santoro, who was the driver, as a 25 to 35-year-old white male, who was 5'6" tall, weighed 170 pounds, and has black hair and was dressed in uniform. § 87(2)(b) described Sgt. Zelikov, the passenger, as a 25 to 35-year-old white male, who was 5'10" tall, weighed 170 pounds, and had black hair and was dressed in uniform. PO Santoro approached the driver's side

of § 87(2)(b)'s vehicle and Sgt. Zelikov approached the passenger side. When the officers approached, § 87(2)(b) took out his cell phone and engaged the audio record function. PO Santoro asked § 87(2)(b) to put the phone down and step out of the car.

During his official statement, § 87(2)(b) said that he put the phone down and exited the vehicle on his own. He said that Sgt. Zelikov reached into his car, picked up § 87(2)(b)'s phone off the passenger seat, and deleted the recording. When § 87(2)(b) filed his complaint with the CCRB's Call-Processing System he said that an officer deleted the footage from his phone but did not put it into context. In his statement to the IAB Command Center, § 87(2)(b) alleged that it was PO Santoro who deleted the footage from his phone, not Sgt. Zelikov. § 87(2)(b) did not mention any officers deleting any footage in his statement to the Police Commissioner's office.

During § 87(2)(b)'s CCRB interview, § 87(2)(b) said that PO Santoro said to § 87(2)(b) "Oh, you fucking Africa, you think we don't know you're a cab driver?" When § 87(2)(b) filed his complaint with the CCRB's Call-Processing System, § 87(2)(b) said the officers "berated" him, but did not provide specifics or put it into context. When § 87(2)(b) filed his complaint with the IAB Command Center, § 87(2)(b) said that PO Santoro told him "Don't fuck with me," and did not mention anything about an officer calling him "fucking Africa" or making any similar statement. In § 87(2)(b)'s statement to the Police Commissioner, § 87(2)(b) said that the officers said, "You fucking Africa cab with no TLC plate, get the fuck out."

During his CCRB official statement, § 87(2)(b) asked Sgt. Zelikov why he deleted the recording and Sgt. Zelikov responded, "Don't fuck with me. You fuck with me, I'll fuck you up." As mentioned above, § 87(2)(b) said it was PO Santoro who said, "Don't fuck with me" when he filed his complaint with the IAB Command Center. § 87(2)(b) did not mention any officers making this statement or similar statements when he filed his complaint with the CCRB's Call-Processing System, did not mention any officers threatening to "fuck him up" when he filed his complaint with the IAB Command Center and did not make any mention of any profanity or threat of force in this context when he made a statement electronically to the Police Commissioners Office.

During his official statement, § 87(2)(b) said that PO Santoro asked him for ID and patted down the outside of his pant pockets and then reached his hand inside the pocket. § 87(2)(b) did not mention any officers frisking or searching him when he filed his complaint with the CCRB's Call-Processing System, filed his complaint with the IAB Command Center or made a statement to the Police Commissioner's office. § 87(2)(b) only had cash in his pockets and told PO Santoro that he had his ID in his car. PO Santoro let § 87(2)(b) return to his vehicle to retrieve the ID. When § 87(2)(b) got back in his car to get his ID he activated the record function on his phone. During his CCRB interview, § 87(2)(b) said that PO Santoro saw him do this and grabbed § 87(2)(b) by his jacket and pulled him out of the vehicle. However, during his CCRB statement, § 87(2)(b) also said that he was not wearing a jacket and reiterated that he was not wearing a jacket during a follow up phone statement on April 19, 2012. However, when § 87(2)(b) filed his complaint with the CCRB's Call-Processing System, § 87(2)(b) provided a different description of his removal from the vehicle after retrieving his license and said that the officer handcuffed one of his hands and then dragged him to the back of the vehicle. During his CCRB statement, § 87(2)(b) said that it was at this time that Sgt. Zelikov then deleted the recording on § 87(2)(b)'s phone a second time. When § 87(2)(b) filed his complaint with the CCRB's Call-Processing System, he alleged that one of the officers deleted the footage from his phone but did not put it into context and indicated that this only occurred one time. As discussed above, § 87(2)(b) provided conflicting statements about who deleted footage, how many times this occurred and the context in which this occurred during his

initial complaint with the CCRB's Call-Processing System, initial complaint to the IAB command Center and electronic complaint with the Police Commissioner's Office. During his CCRB statement, § 87(2)(b) indicated that PO Santoro handcuffed both of § 87(2)(b)'s hands and had him stand at the back of his vehicle. However, § 87(2)(b) indicated that he only had the handcuff on one hand when he filed his complaint with the CCRB's Call-Processing System. PO Santoro and Sgt. Zelikov returned to their vehicle and prepared the summonses. PO Santoro then approached § 87(2)(b) and removed the handcuffs and told § 87(2)(b) that he could wait in the car because it was cold.

§ 87(2)(b) was subsequently issued two summonses for running a red light. He disputed the summonses and denied running any red lights. § 87(2)(b) believes the officers pulled him over because they thought that he was picking up passengers and acting like a livery cab. However, § 87(2)(b) has tinted windows and the officers would not have been able to see whether or not he had a passenger.

On April 24, 2012, § 87(2)(b) provided the CCRB with his cell phone to subsequently be analyzed by IAB's Computer Crimes Division. Although footage was recovered, and is summarized in the "Other Evidence" section of this report, it should be noted that § 87(2)(b) did not provide the CCRB with any footage that was related to this incident as he alleged that all of the recordings were deleted by the officers.

NYPD Statements:

Subject Officer: PO MICHAEL SANTORO

- *PO Santoro was a § 87(2)(b)-old white male on the date of incident, who is 5'8 tall, weighs 235 pounds, with black hair and hazel eyes.*
- *On March 31, 2012, PO Santoro worked from 1:00 p.m. to 9:35 p.m. and was dressed in uniform. He worked as the sergeant operator with Sgt. Vitaliy Zelikov, in RMP #3821.*

Memo Book

PO Santoro's memo book (encl. 9) reflected that on March 31, 2012, at 7:10 p.m. there was a vehicle stop at Lincoln Place and Rogers Avenue. At 7:11 p.m., two summonses were served to § 87(2)(b) of § 87(2)(b) in Brooklyn. E Class License number § 87(2)(b) DOB § 87(2)(b) 1997 Gray Lincoln sedan, license plate number § 87(2)(b). Two summonses for running standing red lights at Nostrand Avenue and St. John's Place and at Nostrand Avenue and Lincoln Place.

Summonses

PO Santoro was the issuing officer of the summonses (encl. 10) issued to § 87(2)(b). Summons #§ 87(2)(b) and #§ 87(2)(b) charged § 87(2)(b) with disobeying steady read lights.

CCRB Statement

PO Santoro was interviewed by the CCRB on February 26, 2013 (encl. 11). On March 31, 2012, at approximately 7:10 p.m., PO Santoro was on patrol with Sgt. Zelikov, driving southbound on Nostrand Avenue, in Brooklyn, when they observed a vehicle operated by § 87(2)(b) approximately two car lengths ahead of them, fail to stop at two red lights and then make a right turn onto Rogers Avenue. PO Santoro and Sgt. Zelikov subsequently pulled § 87(2)(b) over and parked directly behind his vehicle. As the officers were behind § 87(2)(b)'s vehicle, PO Santoro observed § 87(2)(b) making furtive movements, described as moving around and reaching for the floor and around the vehicle, inside his vehicle. PO Santoro

did not recall if § 87(2)(b)'s vehicle had tinted windows or if they were rolled down when he approached the vehicle. PO Santoro approached the drivers' side and Sgt. Zelikov approached the passenger side. § 87(2)(b)'s demeanor was extremely aggressive and he was disputing that he had run any red lights. PO Santoro asked § 87(2)(b) to step out of the vehicle to secure a reasonable distance from him for the officer's safety. § 87(2)(b) exited the vehicle on his own and went to the back of the vehicle with PO Santoro while Sgt. Zelikov remained on the passenger side of the vehicle. PO Santoro did not make physical contact with § 87(2)(b) to remove § 87(2)(b) from the vehicle, as § 87(2)(b) exited on his own. Sgt. Zelikov did not enter § 87(2)(b)'s vehicle.

PO Santoro asked § 87(2)(b) for his license and § 87(2)(b) complied, handing PO Santoro his license from his wallet. PO Santoro did not recall if § 87(2)(b) had his wallet on his person when he gave it to him. PO Santoro never frisked or searched § 87(2)(b). PO Santoro denied entering the vehicle at any point, and did not see Sgt. Zelikov enter the vehicle at any point. PO Santoro did not recall how long the interaction with § 87(2)(b) was. When the situation was deemed safe, § 87(2)(b) returned to the driver's seat of his car and PO Santoro went back to his vehicle and prepared the two summonses.

PO Santoro did not recall seeing § 87(2)(b)'s cell phone during the interaction and denied interacting with his phone at any point. PO Santoro denied that he or Sgt. Zelikov deleted any recordings of the incident from § 87(2)(b)'s phone. § 87(2)(b) did not say anything about recording the officers nor did he make a complaint that Sgt. Zelikov deleted anything from his phone. PO Santoro did not recall making physical contact with § 87(2)(b) during the incident. § 87(2)(b) was never handcuffed.

PO Santoro denied that there was any conversation regarding § 87(2)(b) being from Africa. PO Santoro did not recall § 87(2)(b) saying that the officers were doing this out of hatred or any similar statements. PO Santoro denied that he or Sgt. Zelikov ever said, "Oh you fucking Africa, you think we don't know you're a cab driver" or made any other similar statements to § 87(2)(b). PO Santoro denied that he or Sgt. Zelikov ever said, "Don't fuck with me. You fuck with me, I'll fuck you up" or made any other similar statements to § 87(2)(b). PO Santoro denied that he or Sgt. Zelikov used any profanity during their interaction with § 87(2)(b). PO Santoro denied that there was any conversation about § 87(2)(b) being a cab driver or picking up a hail during the interaction. PO Santoro did not recall what § 87(2)(b) was wearing on the date of incident.

Subject Officer: SGT. VITALY ZELIKOV

- Sgt. Zelikov was a § 87(2)(b)-old white male at the time incident. He is 6'0" tall, weighs 210 pounds, and has brown hair and green eyes.
- On March 31, 2012, PO Zelikov worked from 12:50 p.m. to 9:47 p.m. and was dressed in uniform. He worked as the Impact Sergeant with PO Michael Santoro. Sgt. Zelikov was assigned to RMP #3821.

Memo Book

PO Zelikov's memo book (encl. 12) reflected that on March 31, 2012, at 7:10 p.m., there was a car stop at the corner of Rogers Avenue and Lincoln Place, in Brooklyn. Two red light summonses were issued to § 87(2)(b).

CCRB Statement

Sgt. Zelikov was interviewed by the CCRB on March 13, 2013 (encl. 13). § 87(2)(g)

§ 87(2)(g)

On March 31, 2012, at approximately 7:00 p.m., Sgt. Zelikov was on patrol with PO Santoro in the vicinity of Lincoln Place and Rogers Avenue, in Brooklyn. PO Santoro was driving and Sgt. Zelikov rode in the recorder seat. Sgt. Zelikov and PO Santoro observed a grey Lincoln travelling southbound on Nostrand Avenue drive through two steady red lights. They pulled the vehicle over, travelling west bound on Lincoln Place in the vicinity of Rogers Avenue. After the vehicle stopped, Sgt. Zelikov and PO Santoro pulled up approximately one to two car lengths behind the vehicle. Sgt. Zelikov and PO Santoro exited their vehicle and approached § 87(2)(b) who was the lone occupant of the vehicle. Sgt. Zelikov approached § 87(2)(b)'s vehicle on the passenger side. Sgt. Zelikov did not recall if § 87(2)(b)'s vehicle had tinted windows, and he did not recall any discussion regarding tinted windows. Sgt. Zelikov observed that § 87(2)(b) seemed hostile and belligerent and he was waving his hands and talking loudly. For the officers' safety, the officers ordered § 87(2)(b) to exit his car and stand to the rear of his vehicle. § 87(2)(b) complied and exited the vehicle without assistance from Sgt. Zelikov or PO Santoro. Sgt. Zelikov denied that he or PO Santoro made any physical contact with § 87(2)(b) when he exited his vehicle. Sgt. Zelikov denied that he or PO Santoro made contact with § 87(2)(b) at any point during the incident. § 87(2)(b) was never frisked during the incident. Sgt. Zelikov denied that he or PO Santoro ever searched § 87(2)(b) or put their hands in his pockets during the incident. Once the situation was deemed safe, Sgt. Zelikov and PO Santoro returned to their vehicle and PO Santoro wrote § 87(2)(b) two tickets for disobeying red lights. § 87(2)(b) stood at the rear of his vehicle when PO Santoro wrote the tickets. § 87(2)(b) was allowed to return to his vehicle after he was issued the two tickets. PO Santoro physically handed the tickets to § 87(2)(b).

Sgt. Zelikov denied that § 87(2)(b) made mention of being from Africa, or of being a cab driver. Sgt. Zelikov denied that § 87(2)(b) ever stated that the officers were doing this out of hatred or any similar statements. Sgt. Zelikov denied that he or PO Santoro ever said, "Oh you fucking Africa, you think we don't know you're a cab driver," or made any similar statements to § 87(2)(b) during the incident. Sgt. Zelikov denied that he or PO Santoro ever said, "Don't fuck with me. You fuck with me, I'll fuck you up" or made any similar statements to § 87(2)(b) during the incident. § 87(2)(b) was never placed in handcuffs. Sgt. Zelikov denied that § 87(2)(b) took out his cell phone at any point during the incident, and was not aware that § 87(2)(b) recorded Sgt. Zelikov and PO Santoro during the incident. Sgt. Zelikov denied making any physical contact with § 87(2)(b)'s phone, and he denied deleting any video or audio footage from § 87(2)(b)'s phone. Sgt. Zelikov denied that he entered § 87(2)(b)'s vehicle at any point during the incident.

NYPD Documents

Summary of IAB Investigative Findings

On April 24, 2012, § 87(2)(b) provided the CCRB with his cell phone to be analyzed by IAB's Computer Crimes Division. The following are the results of IAB's Computer Crimes Analysis (enc. 15). The computer crimes division informed the investigation that there was no evidence that any recordings were deleted from § 87(2)(b)'s phone. However, they did find footage that was saved in § 87(2)(b)'s cell phone. It should be noted that § 87(2)(b) did not provide the footage related to this incident to the CCRB, and alleged that all of the recordings were deleted by the officers. The audio recording from § 87(2)(b)'s cell phone reflected the following: The audio indicated that § 87(2)(b) lowered his car windows and an officer tells him that he is issuing him two summons for running red lights and was giving him a break for the window tints. The officer tells § 87(2)(b) he has 15 days to answer the summonses. § 87(2)(b) insisted that he did not run the red light and asked the officer if he is issuing him the

summonses “out of hatred.” There are no further statements made by any officers. There is a sound of a car door opening, indicating that § 87(2)(b) exited his vehicle. § 87(2)(b) than stated again, “You guys are doing this out of hatred, right?” § 87(2)(b) narrates into his phone that the officer's vehicle number is #3821. The audio sounds like § 87(2)(b) is returning to his vehicle. There are footsteps and silence for approximately 13 seconds until the recording ends.

Summons for Incident and Disposition

- On § 87(2)(b), § 87(2)(b) was convicted of both passing red light summonses issued in relation to this incident § 87(2)(b) (encl. 18).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 26, 2013, with regard to the incident (encl. 16).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Department of Motor Vehicle History

- § 87(2)(b)

Civilian CCRB History

- § 87(2)(b) has filed the following CCRB complaints:

- § 87(2)(b)

Subject Officers CCRB History

- PO Santoro has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 1A).
- Sgt. Zelikov has been a member of the service for eight years and there is one substantiated CCRB allegations against him (encl. 1C).
 - In CCRB 201103208, the board recommended that Sgt. Zelikov be substantiated for an abuse of authority (entry/search) allegation and recommended charges. The NYPD declined to prosecute the case and no discipline was imposed.

Conclusion

Identification of Subject Officers

PO Santoro acknowledged his interaction with § 87(2)(b) at the driver's side of the vehicle and Sgt. Zelikov acknowledged that he was at the passenger side of the vehicle, as § 87(2)(b)

§ 87(2)(b) described. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Plead

Although § 87(2)(b) denied running any red lights, § 87(2)(b) was issued two traffic summonses for running a red light, and was subsequently convicted on those charges. § 87(2)(g)

Allegation A – Abuse of Authority: Sgt. Vitaliy Zelikov damaged § 87(2)(b)'s property.

Allegation B – Discourtesy: PO Michael Santoro spoke discourteously to § 87(2)(b)

Allegation C – Offensive Language: PO Michael Santoro made remarks to § 87(2)(b)

based upon race.

Allegation D – Discourtesy: Sgt. Vitaliy Zelikov spoke discourteously to § 87(2)(b)

Allegation E – Abuse of Authority: Sgt. Vitaliy Zelikov threatened § 87(2)(b) with the use of force.

Allegation F – Abuse of Authority: PO Michael Santoro searched § 87(2)(b)

Allegation G – Force: PO Michael Santoro used physical force against § 87(2)(b)

§ 87(2)(g)
§ 87(2)(b)'s allegations were almost identical to his prior statement to the CCRB, in CCRB § 87(2)(b) where he also alleged that officers pulled him from his jacket, handcuffed him, and used identical language, calling him “Fucking Africa,” and threatened to “Fuck [him] up.” § 87(2)(g)

§ 87(2)(g) he was issued two summonses, which has impacted his Department of Motor Vehicles record. § 87(2)(b) provided his phone to the CCRB, who in turn, had the phone analyzed by IAB’s Computer Crimes Division. IAB’s Computer Crimes Division reported that there was no evidence that any footage was deleted from § 87(2)(b)'s phone. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
In addition to confirming that there was no evidence that footage was deleted from § 87(2)(b)'s phone, IAB Computer Crimes Division provided the investigation with audio footage that had actually been saved to § 87(2)(b)'s phone from this incident. In that footage there was no indication that any officers had any contact with § 87(2)(b)'s phone, and the recording was overall inconsistent with the officers aggressiveness and hostility that § 87(2)(b) described. The audio recording recovered reflected just the opposite of § 87(2)(b)'s description of the officers’ behavior, and reflected that § 87(2)(b) argued with an officer who was direct and patient with him. § 87(2)(g)

Both Sgt. Zelikov and PO Santoro denied all of the allegations, which included deleting footage from § 87(2)(b)'s phone or even having contact with § 87(2)(b)'s phone, using profanity or offensive language, threatening § 87(2)(b) with force, searching § 87(2)(b) and using physical force against § 87(2)(b). § 87(2)(g)

§ 87(2)(g)

Team: 6

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Investigator: _____ Lauren Goldapper _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date